

VIRGINIA GAS AND OIL BOARD

MARCH 17, 2009 MINUTES

Pursuant to Sections 45.1-361.9.B and 45.1-361.22.B of the Code of Virginia, the Virginia Gas and Oil Board conducted hearings that commenced at 9 a.m. on Tuesday, March 17, 2009, at the Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, Virginia.

Board members present were Mrs. Peggy Barber, Mrs. Nellie Kate Dye, Mr. Bill Harris, Mr. Bradley C Lambert (Chairman) Mr. Bruce A. Prather, Mrs. Mary A. Quillen, and Mr. Donald L. Ratliff.

Also present were Ms. Sharon M. B. Pigeon, Sr. Assistant Attorney's General and Mr. David E. Asbury Jr., Director of the Division of Gas & Oil and Principle Executive to the Staff of the Board; Mrs. Diane J. Davis and Mr. Matthew Z. Kent of the Division of Gas and Oil.

The board heard and addressed the following:

1. The Board on its own motion addressed the issue of post production costs allowed by board order in "force poolings".

Chairman Bradley Lambert welcomed Senator Phillip P. Puckett who addressed the board regarding three areas:

- 1) The Legislative Process and the recent short session of the General Assembly including the defeat of Senate Bill 1204 regarding the recommendation of no deductions from the 1/8th royalty in "forced poolings" in board orders.
- 2) His Town Hall Meeting Idea whereby meetings would be held in each of his Southwest Virginia jurisdictions to educate citizens about the process of natural gas and coalbed methane gas development and discuss issues surrounding development of gas and other energy resources in region.
- 2) Senator Puckett challenged the board to restore confidence in its process on the basis of "fair" and "impartial" dealings in matters with the General Public.
Mr. Puckett stated the post production cost issue is not going away and pleaded to the board members to further study and address the issue.

Chairman Lambert offered DMME's support to Senator Puckett's ideas and the agency's willingness to participate in the Educational Outreach as part of the Town Hall Meeting idea. Board member Bill Harris applauded Senator Puckett's efforts.

Chairman Lambert invited Delegate Phillips to address the board.

Delegate Phillips stated the need for natural gas and coal is growing and landowners are becoming more educated regarding their rights and what issues need to be addressed. Therefore, issues like the post production cost deductions before the board, need to be addressed now. Mr. Phillips challenged that if the board was not willing to immediately ask for the Attorney General's written opinion on the issue, he, on behalf of his constituents, would file a motion of declaratory judgment in the Dickenson County Circuit Court. He stated "We need to know what the law is, and we need to know quickly."

Chairman Lambert requested Sr. Assistant Attorney General Sharon Pigeon to prepare a letter requesting the opinion from the Attorney General's Office in Richmond and report back to the board.

The Public Comment Period Continued:

Mr. Jerry Grantham spoke on behalf of the Virginia Oil and Gas Association (VOGA):

Mr. Grantham stated discussions between industry and interested parties in Richmond focused around a method of "Olympic Scoring" to arrive at a reasonable cost, tossing out the high and the low and averaging all other costs defined as "post production costs". Using the Olympic scoring method an average cost of \$0.82 per Mcf was proposed. This recommendation also was not adopted during the legislative session. He stated a zero deduct policy would be inconsistent with private contracts and history of board orders.

Mr. Grantham commented, VOGA understands a letter was to be drafted by the Agricultural, Conservation and Natural Resources Committee requesting a study of the post production cost issue be conducted later this year, with DMME coordinating the effort. Mr. Grantham stated that VOGA supports the recommended study.

Mr. Kyle Robinson spoke on his own behalf:

Mr. Robinson spoke regarding his objections to the Board's utilization of interest payments to escrowed account, to pay for an audit of the escrow account.

Ms. Juanita Sneeuwjagt, President of the Clintwood based Committee for Constitutional and Environmental Justice:

Ms. Sneeuwjagt complimented Delegate Phillips for his efforts and spoke on behalf of taking no deductions from the 1/8th royalty. She stated the board had not done a good job in protecting correlative rights of Southwest Virginia citizens and challenged the board members to do a better job.

Ms. Catherine Jewell spoke on her own behalf:

Ms. Jewell commented in regard to the pending board decision regarding an escrow audit. She stated the board needed to endorse a complete detailed audit of the escrow account, not just a checkbook audit. In regard to the post production cost issue, Ms. Jewell asked that

pre-1992 board orders be reviewed and protections originally afforded in those early orders be restored.

Mr. Kevin West, representative of the EQT Corporation

Mr. West commenting on the issue of post production cost deductions asked that no action be taken by the board today. He stated support for the proposed study by the Agricultural, Conservation and Natural Resources Committee and suggested no action until the Educational Outreach Program has had an opportunity to fully present an entire picture of the circumstances surrounding the issue.

Mr. West stated, EQT would be a willing participant in the communications and educational outreach program. He suggested a better job could be done relative to communications and transparency of the process.

John Sheffield spoke on his own behalf:

Mr. Sheffield asked the board to explain the definition of wellhead. Mr. Prather stated that is where the well comes out of the ground and is connected to a sub-meter or master meter.

Frank Henderson, representing Appalachian Energy

Mr. Henderson thanked the board for their work and Senator Puckett and Delegate Phillips for their presentations and efforts.

Mr. Henderson discussed the defeat of the proposed legislation regarding no deductions from the 1/8th royalty in “forced poolings” and commented the issue is a very complex one and any decisions should have the full benefit of open debate. He stated his experience reaches back before the creation of the board and the 1990 Gas & Oil Act. He stated the reason for the Gas & Oil Board is to foster gas and oil development and without such development there would be no jobs, no tax revenues, and no royalty for Southwest Virginia Counties.

Jim Kaiser, Esq. on behalf of his clients:

Mr. Kaiser made comments relative to the purpose of the board and stated the board was a working / administrative board, appointed to assist in the development of gas and oil in southwest Virginia counties. Without the workings of the board, there would be no development and no royalties. He supported and echoed Mr. Henderson’s statements.

Ms. Patsy Moore spoke on behalf of herself:

Ms. Moore presented an issue of her water well. Chairman Lambert requested Mr. Asbury to follow-up with Ms. Moore and to investigate circumstances related to the well.

Ms. Shirley Keen spoke on behalf of herself and the O.H. Keen Heirs:

Ms. Keen stated opposition to CNX and the deduction of post production costs from the 1/8th royalty in “forced poolings”. She commented that a lot of people could absolutely use the money being stolen from them. Ms. Keen also stated there were three companies interested in producing their gas other than CNX and that these companies were offering 20% more for their gas.

Board Member Ratliff stated the board had studied this matter for over a year and therefore, offered the following motion.

The motion made by Mr. Ratliff was that the Virginia Gas & Oil Board will include in forced pooling orders, language addressing how conventional natural gas, coalbed methane, and oil are to be valued at the wellhead for purposes of royalty payment. Royalty payments shall be based on 100% of the value of the gas or oil “at the wellhead”. Resource owners subject to forced pooling shall be entitled to a royalty payment of no less than one-eighth the value of the gas or oil “at the wellhead”. For purposes hereof, the value of the gas at the wellhead shall be deemed to be the sales price at the first point of sale less post production costs, not to exceed a maximum of \$.50 for conventional wells and \$.70 for coalbed methane gas wells. The value of oil at the wellhead shall be deemed to be the sales price at the first point of sale less reasonable transportation costs from the well to the first point of sale to be determined in like manner by the Board. Each gas or oil well operator shall make an annual filing with the Department by February 15, which will set forth the average of such operator’s actual post-production costs for the preceding calendar year for all gas or oil produced in the Commonwealth. Such adjustment shall be calculated by the Board and shall be made public annually on April 1. The maximum deduction for post-production costs shall be adjusted annually each July 1, if an adjustment be warranted, by the Board.

The motion was second by Bruce Prather. A roll call vote was called as follows: Quillen-no, Barber-no, Harris-no, Dye-no, Ratliff-yes, Prather-no, Lambert-no.

The Motion failed on roll call vote.

2. A petition from Equitable Production Company for **pooling** of coalbed methane unit VC-537891, Hurricane District, Buchanan County, Virginia. Docket Number VGOB 08-1209-2393. This docket item was continued from January 2009.

The petition was withdrawn by applicant.

3. A petition from Equitable Production Company for **establishment of a provisional drilling unit consisting of 320 acres** for the drilling of horizontal conventional gas wells and served by well VH-531269, Unit EPC-2429, Richmond District, Wise County, Virginia. Docket Number VGOB-09-0120-2429. This docket item was continued from January 2009.

The petition was withdrawn by applicant.

4. A petition from Equitable Production Company for **establishment of a provisional drilling unit consisting of 480 acres** for the drilling of horizontal conventional gas wells and served by wells VH-531022 and VH-531104, Unit EPC-2432, Gladeville District, Wise County, Virginia. Docket Number VGOB-09-0120-2432. This docket item was continued from January 2009.
The petition was withdrawn by applicant.
5. A petition from Appalachian Energy, Inc. for **pooling** of coalbed methane well AE-199 (Unit F-37), Garden District, Buchanan County, Virginia. Docket Number VGOB-09-0120-2439. This docket item was continued from February 2009.
Appalachian Energy presented a revised Exhibit B as a result of additional leasing. The board heard and questioned certain leasing percentage calculations within the new exhibit. Due to problems in the presentation of percentages, a revised Exhibit B and E will be required.
The issue before the board in this petition also regards a competing lease for pooling of unit F-37. The competing parties are Appalachian Energy, Inc. and GeoMet Operating. The Board heard several hours of testimony from both parties seeking the designation of “operator” of this unit. After testimony and deliberations, there was no action taken or pooling approved by the board.
6. A petition from Appalachian Energy, Inc. for **pooling** of coalbed methane well AE-237 (Unit F-36), Garden District, Buchanan County, Virginia. Docket Number VGOB-09-0120-2440. This docket item was continued from February 2009.
This petition was included with testimony for VGOB-0120-2439 and VGOB 09-0120-2453.
There was no action taken on this item by the board and the item was not continued.
7. A petition from Appalachian Energy, Inc. for **pooling** of coalbed methane well AE-245 (Unit F-35), Garden District, Buchanan County, Virginia. Docket Number VGOB-09-0120-2441. This docket item was continued from February 2009.
This petition was included with testimony for VGOB-0120-2439 and VGOB 09-0120-2453.
There was no action taken on this item by the board and the item was not continued.
8. A petition from Appalachian Energy, Inc. for **pooling** of coalbed methane well AE-243 (Unit F-34), Garden District, Buchanan County, Virginia. Docket Number VGOB-09-0120-2442. This docket item was continued from February 2009.
This petition was included with testimony for VGOB-0120-2439 and VGOB 09-0120-2453.
There was no action taken on this item by the board and the item was not continued.

9. A petition from Appalachian Energy, Inc. for **pooling** of coalbed methane well AE-241 (Unit F-33), Garden District, Buchanan County, Virginia. Docket Number VGOB-09-0120-2443. This docket item was continued from February 2009.
- This petition was included with testimony for VGOB-0120-2439 and VGOB 09-0120-2453. There was no action taken on this item by the board and the item was not continued.**
10. A petition from GeoMet Operating Company, Inc. for **pooling** of coalbed methane unit E-37, Rogers Well 426, North Grundy District, Buchanan County, Virginia. Docket Number VGOB-09-0120-2447. This docket item was continued from February 2009.
- The petition was approved by the Board.**
11. A petition from GeoMet Operating Company, Inc. for **pooling** of coalbed methane unit F-33, Rogers Well 416, North Grundy District, Buchanan County, Virginia. Docket Number VGOB-09-0120-2449. This docket item was continued from February 2009.
- This petition was included with testimony for VGOB-0120-2439 and VGOB 09-0120-2453.**
- There was no action taken on this item by the board and the item was not continued.**
12. A petition from GeoMet Operating Company, Inc. for **pooling** of coalbed methane unit F-34, Rogers Well 417, North Grundy District, Buchanan County, Virginia. Docket Number VGOB-09-0120-2450. This docket item was continued from February 2009.
- This petition was included with testimony for VGOB-0120-2439 and VGOB 09-0120-2453.**
- There was no action taken on this item by the board and the item was not continued.**
13. A petition from GeoMet Operating Company, Inc. for **pooling** of coalbed methane unit F-35, Rogers Well 418, North Grundy District, Buchanan County, Virginia. Docket Number VGOB-09-0120-2451. This docket item was continued from February 2009.
- This petition was included with testimony for VGOB-0120-2439 and VGOB 09-0120-2453.**
- There was no action taken on this item by the board and the item was not continued.**
14. A petition from GeoMet Operating Company, Inc. for **pooling** of coalbed methane unit F-36, Rogers Well 419, North Grundy District, Buchanan County, Virginia. Docket Number VGOB-09-0120-2452. This docket item was continued from February 2009.
- This petition was included with testimony for VGOB-0120-2439 and VGOB 09-0120-2453.**
- There was no action taken on this item by the board and the item was not continued.**

15. A petition from GeoMet Operating Company, Inc. for **pooling** of coalbed methane unit F-37, Rogers Well 420, North Grundy District, Buchanan County, Virginia. Docket Number VGOB-09-0120-2453. This docket item was continued from February 2009.

Because this docket item has a competing lease, docket fifteen (15) was called and heard by the board along with docket item five (5).

The issue before the board in this petition also regards a competing lease for pooling of unit F-37. The competing parties are Appalachian Energy, Inc. and GeoMet Operating. The Board heard several hours of testimony from both parties seeking the designation of “operator” of this unit.

After testimony and deliberations, there was no action taken or pooling approved by the board.

16. A petition from GeoMet Operating Company, Inc. for **pooling** of coalbed methane unit YYY-36, Rogers Well 279, North Grundy District, Buchanan County, Virginia. Docket Number VGOB-09-0217-2465. This docket item was continued from February 2009.

Petition was withdrawn by the applicant.

17. A petition from GeoMet Operating Company, Inc. for **pooling** of coalbed methane unit A-32, Rogers Well 286, Garden District, Buchanan County, Virginia. Docket Number VGOB-09-0217-2466. This docket item was continued from February 2009.

Applicant’s request for continuance to April was granted.

18. A petition from GeoMet Operating Company, Inc. for **pooling** of coalbed methane unit A-33, Rogers Well 438, Garden District, Buchanan County, Virginia. Docket Number VGOB-09-0217-2467. This docket item was continued from February 2009.

Applicant’s request for continuance to April was granted.

19. A petition from GeoMet Operating Company, Inc. for **pooling** of coalbed methane unit A-37, Rogers Well 277, Garden District, Buchanan County, Virginia. Docket Number VGOB-09-0217-2468. This docket item was continued from February 2009.

Applicant’s request for continuance to April was granted.

20. A petition from GeoMet Operating Company, Inc. for **pooling** of coalbed methane unit ZZZ-35, Rogers Well 591, North Grundy District, Buchanan County, Virginia. Docket Number VGOB-09-0217-2470. This docket item was continued from February 2009.

Applicant’s request for continuance to April was granted.

21. A petition from GeoMet Operating Company, Inc. for **pooling** of coalbed methane unit ZZZ-36, Rogers Well 213, North Grundy District, Buchanan County, Virginia. Docket Number VGOB-09-0217-2471. This docket item was continued from February 2009.

Applicant’s request for continuance to April was granted.

22. A petition from GeoMet Operating Company, Inc. for **pooling** of coalbed methane unit ZZZ-37, Rogers Well 212, North Grundy District, Buchanan County, Virginia. Docket Number VGOB-09-0217-2472. This docket item was continued from February 2009.

Applicant's request for continuance to April was granted.

23. A petition from CNX Gas Company, LLC for **disbursement** of funds from escrow and authorization for direct payment of royalties in tracts 1B and 1C, unit AA-8, South Grundy District, Buchanan County, Virginia. Docket Number VGOB-90-1010-0032-05.

Special circumstances exist in this disbursement regarding the divorce decree of James and Janice Ball and her subsequent purchase of property on March 9th, 2009. Disbursement and future royalty payments based on testimony and percentage distribution exhibit was approved by the board.

24. A petition from CNX Gas Company, LLC for **disbursement** of funds from escrow and authorization for direct payment of royalties in tract 2C, unit AA-9, South Grundy District, Buchanan County, Virginia. Docket Number VGOB-91-0430-0116-04.

The previous unit disbursement percentage calculations were incorrect. A total of \$877.34 was overpaid from escrow. The overpayment will be placed back into the escrow account by CNX prior to this disbursement and recouped from continuing direct payments.

The petition was approved by the board.

25. A petition from CNX Gas Company, LLC for **disbursement** of funds from escrow and authorization for direct payment of royalties in tract 2B and a portion of tract 2C, unit BB-8, Prater/Hurricane Districts, Buchanan County, Virginia. Docket Number VGOB-90-1010-0033-05.

Special circumstances exist in this disbursement regarding the divorce decree of James and Janice Ball and her subsequent purchase of property on March 9th, 2009. Disbursement and future royalty payments based on testimony and percentage distribution exhibit was approved by the board.

26. A petition from CNX Gas Company, LLC for **pooling** of coalbed methane unit H-106 North Grundy, Buchanan County, Virginia. Docket Number VGOB- 09-0317-2486.

The petition was continued to the April 2009 meeting.

27. A petition from CNX Gas Company, LLC for **pooling** of coalbed methane unit R-49 Garden District, Buchanan County, Virginia. Docket Number VGOB- 09-0317-2487.

The petition was continued to the April 2009 meeting.

28. A petition from CNX Gas Company, LLC for **pooling** of coalbed methane unit X (-2) Prater District Buchanan County, Virginia. Docket Number VGOB- 09-0317-2488.

The petition was continued to the April 2009 meeting.

29. A petition from CNX Gas Company, LLC for **pooling** of coalbed methane unit AW-134 Maiden Springs District, Tazewell County, Virginia. Docket Number VGOB- 09-0317-2489.
The petition was continued to the April 2009 meeting.
30. A petition from CNX Gas Company, LLC for **pooling** of coalbed methane unit AV-135 Maiden Springs District, Tazewell County, Virginia. Docket Number VGOB- 09-0317-2490.
The petition was continued to the April 2009 meeting.
31. A petition from CNX Gas Company, LLC for **re-pooling** of conventional gas well A 24 CV Garden District, Buchanan County, Virginia. Docket Number VGOB- 07-1218-2093-01.
The petition was continued to the April 2009 meeting.
32. A petition from Equitable Production Company for the **establishment of a provisional drilling unit consisting of 320 acres** for the drilling of horizontal conventional gas wells, unit EPC-2491, Gladeville District, Wise County, Virginia. Docket Number VGOB 09-0317-2491.
The petition was continued to the April 2009 meeting.
33. A petition from Equitable Production Company, for **pooling** of coalbed methane well VC-503374, Ervinton District, Dickenson County, Virginia. Docket Number VGOB- 09-0317-2492.
The petition was continued to the April 2009 meeting.
34. A petition from Equitable Production Company, for **pooling** of coalbed methane unit VH-539923, Unit AW-61, Gladeville District, Wise County, Virginia. Docket Number VGOB-09-0317-2493.
The petition was continued to the April 2009 meeting.
35. A petition from Equitable Production Company for a **well location exception** for proposed well V-535842, Floyd District, Scott County, Virginia. Docket Number VGOB-09-0317-2494.
The petition was continued to the April 2009 meeting.
36. A petition from Equitable Production Company for a **well location exception** for proposed well V-502696, Richmond District, and Wise County, Virginia. Docket Number VGOB-09-0317-2495.
The petition was continued to the April 2009 meeting.
37. A petition from Equitable Production Company for a **well location exception** for proposed well V-502792, Gladeville District, and Wise County, Virginia. Docket Number VGOB-09-0317-2496.
The petition was continued to the April 2009 meeting.

38. A petition from Range Resources- Pine Mountain Inc. for the **establishment of a provisional drilling unit consisting of 320 acres** for the drilling of horizontal conventional gas wells, unit RR-2497, Ervinton District, Dickenson County, Virginia. Docket Number VGOB 09-0317-2497.
The petition was continued to the April 2009 meeting.
39. A petition from Range Resources-Pine Mountain Inc. for the **establishment of a provisional drilling unit consisting of 320 acres** for the drilling of horizontal conventional gas wells, unit RR-2498, Ervinton District, Dickenson County, Virginia Docket Number VGOB 09-0317-2498.
The petition was continued to the April 2009 meeting.
40. A petition from Equitable Production Company for **Disbursement** of funds from escrow and authorization for direct payment of royalties on tract 3, well VC- 4511, Kenady District Dickenson County, Virginia. Docket Number VGOB-00-0620-0813-01.
Owner identification was corrected. The disbursement was approved with corrections.
41. A petition from Equitable Production Company for **Disbursement** of funds from escrow and authorization for direct payment of royalties on a portion of tract 5, well VC- 501853, Castlewood District Russell County, Virginia. Docket Number VGOB 00-0516-0815-03.
The petition was approved for disbursement of tract 5 based on the royalty split agreement presented.
42. A petition from Equitable Production Company for **Disbursement** of funds from escrow and authorization for direct payment of royalties on a portion of tract 5, well VC- 536070, Castlewood District Russell County, Virginia. Docket Number VGOB 04-0921-1337-03.
The petition was approved for disbursement for tract 5 based on the royalty split agreement presented.
43. A petition from Equitable Production Company for **Disbursement** of funds from escrow and authorization for direct payment of royalties on a portion of tract 3, well VC- 551315, Castlewood District Russell County, Virginia. Docket Number VGOB 06-0620-1653-01.
The petition was approved for disbursement for tract 3 based on the royalty split agreement presented.
44. A petition from Equitable Production Company for **Disbursement** of funds from escrow and authorization for direct payment of royalties on a portion of tract 4, well VC-2835, Castlewood District Russell County, Virginia. Docket Number VGOB 98-0324-0642-01.
The petition was approved for disbursement for tract 4 based on the royalty split agreement presented.

45. A petition from Equitable Production Company for **Disbursement** of funds from escrow and authorization for direct payment of royalties on tract 2, well VC-537101, Ervinton District Dickenson County, Virginia. Docket Number VGOB 06-1219-1834-01.
The petition was approved for disbursement for tract 2 based on the royalty split agreement presented. The account is to be closed.
46. A petition from Equitable Production Company for **Disbursement** of funds from escrow and authorization for direct payment of royalties on tract 2, well VC-537095, Ervinton District Dickenson County, Virginia. Docket Number VGOB 06-1219-1835-01.
The petition was approved for disbursement for tract 2 based on the royalty split presented. Spreadsheet was revised to include additional acreage. The account will be closed after this disbursement.
47. A petition from Range Resources-Pine Mountain Inc for a **well location exception** for proposed well V-530121, Kenady District, and Dickenson County, Virginia. Docket Number VGOB-09-0317-2499.
The petition was continued to the April 2009 meeting.
48. The Board on its own motion will receive and discuss a Request for Proposal (RFP) relative to the expiring contract with the Board's Current Escrow Funds Manager, Wachovia Bank and Trust.

The Board announced and entered a closed session for discussions.

After the closed session, the board returned to record. A motion was made and seconded that all Requests for Proposal (RFPs) previously received in regard to the Escrow Audit be rejected, the scope of the audit further refined, and a revised RFP re-advertised. Comments by the board members are to be submitted to Mr. Asbury's office, compiled and presented at the April 2009 meeting.

The motion to revise and re-advertize the RFP for escrow audit was approved.

Regarding the Request for Proposal (RFP) relative to the expiring contract with Wachovia Bank and Trust, Mr. Asbury distributed a "draft" for the Boards consideration. Comments will be received via email at Mr. Asbury's office and prepared for discussion and vote by the Board at the April 2009 meeting.

Chairman Lambert further discussed the expiring contract with the current Escrow Agent and recommended the Board approve a six month extension allowed under the contract. **The six month extension of the current contract was discussed and approved by the board.**

49. The Board will hear public comments.

Public comments were heard at the first of today's meeting following comments from Senator Puckett and Delegate Phillips.

The deadline for filing of petitions to the Board for the April 2009 hearing is 5 p.m., Friday, March 20, 2009 with the hearing scheduled for 9 a.m. on Tuesday, April 21, 2009 at the Southwest Virginia Higher Education Center, Abingdon, Virginia.